

1 **Gregory Grantham, Esq. # 125732**
2 **13902 Gershon Place**
3 **Santa Ana, California 92705**
4 **Tel (714) 544-1276**
5 **Fax (714) 544-2307**

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CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

6 Attorney for Plaintiffs, GREG SPAK, Trustee of the CHERRY BLOSSOM REVOCABLE INTER
7 VIVOS TRUST & A.E. MOTORCYCLE TECH, INC., a California corporation, assignee of Leslie
8 Gladstone, Chapter 7 Trustee of the Bankruptcy Estate of Barrie Morine Logan

9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 GREG SPAK, Trustee of the Cherry
12 Blossom Revocable Inter Vivos Trust,
13 and A.E. MOTORCYCLE TECH, INC., a
14 California corporation, assignee of Leslie
15 Gladstone, Chapter 7 Trustee of the
16 Bankruptcy Estate of Barrie Morine
17 Logan,

18 Plaintiffs,

19 vs.

20 COMERICA, INC., a Delaware
21 corporation; MILLER, MONSON,
22 PESHEL, POLACEK & HOSHAW, a
23 partnership of professional law
24 corporations,

25 Defendants.

Case No. **08 CV 1482 DMS POR**

COMPLAINT BY ASSIGNEE OF
CHAPTER 7 TRUSTEE TO AVOID
AND RECOVER PREFERENTIAL
TRANSFERS PURSUANT TO § 547
AND §550 OF TITLE 11 OF UNITED
STATES CODE

26 Greg Spak, Trustee of the Cherry Blossom Revocable Inter Vivos Trust and A.E.
27 Motorcycle Tech, Inc., assignees of Leslie Gladstone, Chapter 7 Trustee for the bankruptcy
28 estate of Barrie Morine Logan ("Logan"), hereby allege for their complaint against
Comerica, Inc., a Delaware corporation, and Miller, Monson, Peshel, Polacek & Hoshaw,
a partnership of professional law corporations, as follows:

Complaint

CK

I. JURISDICTION / VENUE

1
2
3 1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331,
4 1334.

5 2. Venue in this Court is proper pursuant to 28 U.S.C. § 1391(b)(1) and 28 U.S.C.
6 § 1408-09 in that this matter arises under and in connection with a case under Title 11
7 pending in this District, and one of the defendants resides in this district.

8 3. This is not a 'core proceeding' as defined by 28 U.S.C. § 157(b)(2)(A), or (G),
9 in that the Chapter 7 Trustee has assigned all the estate's right, title, and interest in the claims
10 alleged herein to Plaintiff, A.E. Motorcycle Tech, Inc., a private creditor. A.E. Motorcycle
11 Tech, Inc., has, in turn, executed a partial assignment of said claims to Plaintiff, Greg Spak,
12 Trustee of the Cherry Blossom Revocable Inter Vivos Trust, herein. Therefore, any recovery
13 sought or obtained herein will not affect the administration the bankruptcy case and the
14 dispute exists between private parties concerning an asset and claims which is no longer
15 property of the bankruptcy estate by virtue of the assignment.

16
17 **II. PARTIES**

18
19 4. Plaintiff, Greg Spak, Trustee of the Cherry Blossom Revocable Inter Vivos
20 Trust ("Trust") is a citizen of the United States of America and resides within Northern
21 District of California.

22 5. Plaintiff, A.E. Motorcycle Tech, Inc. is a corporation organized and existing
23 under the laws of the State of California with its principal place of business within the
24 Northern District of California.

25 6. Defendant, Comerica, Inc., is a corporation organized and existing under the
26 laws of the State of Delaware with its principal place of business located in Dallas, Texas.
27 Comerica conducts banking in various states of the United States of America, including the
28 State of California. At the time of the events alleged herein, Comerica, Inc. conducted

1 business through its wholly owned subsidiary, Comerica Bank - California. Comerica, Inc.
2 is the successor in interest to Comerica Bank - California.

3 7. Defendant, Miller, Monson, Peshel, Polacek & Hoshaw is a partnership
4 organized and existing under the laws of the State of California of professional law
5 corporations organized and existing under the laws of the State of California with its
6 principal place of business within this judicial district. Miller, Monson, Peshel, Polacek &
7 Hoshaw is engaged in the practice of law in the State of California.

8
9 **III. PRIOR RELATED PROCEEDINGS**

10
11 8. On June 20, 2003, Comerica Bank - California ("Bank") filed a complaint
12 against Don Logan, Barrie Logan, American Eagle Corporation, a Nevada corporation, and
13 others alleging, inter alia, claims seeking approximately \$700,000 in money damages base
14 on conversion of asset subject to a the Bank's blanket security interest, in *Comerica Bank -*
15 *California v. American Eagle Corporation, etc., et al.*, California Superior Court, County of
16 Santa Clara, Case No. 1:-03-CV818041. ("Santa Clara litigation")

17 9. Plaintiffs, AEMT and Spak filed a cross-complaint in the Santa Clara Litigation
18 against Don Logan, Barrie Logan, American Eagle Corporation, and others, seeking inter alia
19 \$2,500,000 in damages for breach of a 'purchase money' promissory note.

20 10. Don Logan died in January, 2006 while the Santa Clara litigation was pending.
21 Barrie Logan, his surviving spouse, entered into an agreement to sell their real property
22 located at 7223 El Fuerte Street, Carlsbad, California ("El Fuerte Property") for \$2,400,000
23 in or about April, 2006. In April, 2006, the Bank obtained a Right to Attach Order against
24 Barrie Logan in the amount of \$677,266.73, and a Writ of Attachment against the El Fuerte
25 Property, which was recorded in the Official Records of San Diego County on May 1, 2006.

26 11. On May 15, 2006, the Bank and Barrie Logan entered into a stipulation to
27 release the Bank's attachment lien on the El Fuerte Property, to allow the escrow opened by
28 Barrie Logan for sale of the property to close. The stipulation provided for the surplus cash

1 proceeds of \$677,266.73 to be deposited in a blocked account at Comerica Bank, No.
2 8000829518. The stipulation further provided that no funds shall be released from said
3 account without either (1) joint instructions signed by counsel for Barrie M. Logan and for
4 Comerica Bank, or (2) and Order of the Santa Clara Superior Court.

5 12. On July 3, 2006, the Santa Clara Superior Court granted AEMT's Application
6 for a Right to Attach Order against Barrie Logan in the amount of \$2,500,000 and issued a
7 Writ of Attachment for Barrie Logan's funds in deposited in Comerica Bank Account
8 #8000829518, the amount of \$677,238.73

9 13. On July 12, 2006, at 3:00 p.m., AEMT levied its Writ of Attachment on the
10 Bank, at its main branch in the City of San Jose, California. On July 17, 2007, Comerica
11 Bank served a 'Memorandum of Garnishee' on the Santa Clara Sheriff reporting the
12 following: "Comerica Bank Account - - There are no funds available in the account."

13 14. The funds were 'not in the account' because on July 12, 2006, at 3:06 p.m., the
14 Bank and Barrie Logan entered into a settlement agreement in full resolution of the claims
15 of the Bank against Barrie Logan, and the Estate of Don Logan, in the Santa Clara Litigation.
16 The settlement agreement provided that Comerica would receive \$640,000 of Barrie Logan's
17 funds in Comerica Account #8000829518, and that the remaining funds, with interest,
18 approximately \$40,000 would be sent via wire transfer to Miller, Monson, Peshel, Polacek
19 & Hoshaw, the attorneys then representing Barrie Logan in the Santa Clara Litigation, in
20 payment of Barrie Logan's indebtedness for attorneys fees. The settlement agreement
21 provided that after the passage of 90 days, the Bank would dismiss Barrie Logan and the
22 Estate of Don Logan from the Santa Clara Litigation

23 14. On October 4, 2006, (hereinafter the "Petition Date"), within 90 days of the
24 'settlement agreement' between Comerica Bank and Barrie Logan, Barrie Logan filed a
25 voluntary petition for bankruptcy, under Chapter 7 of the Bankruptcy Code in the United
26 States Bankruptcy Court, Southern District of California, commencing the case entitled, *In*
27 *re Barrie Morine Logan*, USBC, So. Dist. of Cal., Case No. 06-02980-PB7. Leslie
28 Gladstone was appointed Chapter 7 Trustee.

1 15. On May 22, 2007, Barrie Logan received a full discharge of all claims against
2 her in the bankruptcy case.

her in the bankruptcy case.

16. On May 28, 2008, the Bankruptcy Court approved an assignment of all of the estate's rights and claims against the Bank, and other parties to the Santa Clara Litigation, including any claims arising from violations of the Bankruptcy Code to AEMT. Leslie Gladstone thereafter executed an Assignment of Claims

4 | estate's rights and claims against the Bank, and other parties to the Santa Clara Litigation,
5 | including any claims arising from violations of the Bankruptcy Code to AEMT. Leslie
6 | Gladstone thereafter executed an Assignment of Claims

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17. On August 11, 2008, AEMT made a partial assignment of the rights, recoveries, claims, and interests which it acquired by an Assignment made by Leslie Gladstone, Chapter 7 Trustee of the bankruptcy estate of Barrie Morine Logan to Greg Spak, Trustee of the Cherry Blossom Revocable Inter Vivos Trust.

8 recoveries, claims, and interests which it acquired by an Assignment made by Leslie

9 Gladstone, Chapter 7 Trustee of the bankruptcy estate of Barrie Morine Logan to Greg Spak,

10 Trustee of the Cherry Blossom Revocable Inter Vivos Trust.

11

12 IV. CLAIMS FOR RELIEF

13

14 **First Claim for Relief - AEMT / Trust, Assignees of the**
15 **Bankruptcy Estate of Barrie Morine Logan, for Avoidance**
16 **and Recovery of Preferential Transfer Against Comerica,**
17 **Inc.**

15 **Bankruptcy Estate of Barrie Morine Logan, for Avoidance**

16 **and Recovery of Preferential Transfer Against Comerica,**

17 **Inc.**

18

19 18. Plaintiffs hereby repeat and reallege paragraphs 1-17 of the Complaint as if set
20 forth in full herein.

20 forth in full herein.

19. On or within 90 days prior to the Petition Date, funds in the amount of \$640,000, held in Barrie Logan's Account #8000829518 at Comerica were debited and transferred to Comerica Bank (the "Comerica Transfer").

22 \$640,000, held in Barrie Logan's Account #8000829518 at Comerica were debited and
23 transferred to Comerica Bank (the "Comerica Transfer").

23 transferred to Comerica Bank (the “Comerica Transfer”).

24 20. The Comerica Transfer was for or on account of an antecedent debt owed by
25 Barrie Logan to the Bank before the Comerica Transfer was made, to wit to resolve claims
26 alleged for conversion by the Bank against Barrie Logan in its complaint filed on June 20,
27 2003 in the Santa Clara Litigation.

25 Barrie Logan to the Bank before the Comerica Transfer was made, to wit to resolve claims

26 alleged for conversion by the Bank against Barrie Logan in its complaint filed on June 20,

27 | 2003 in the Santa Clara Litigation.

28 21. The Comerica Transfer was made while Barrie Logan was insolvent.

1 22. The Comerica Transfer enabled Comerica to receive more than Comerica
2 would receive if: (i) this were a case under Chapter 7 of the Bankruptcy Code, (ii) the
3 Comerica Transfer had not been made, and (iii) Comerica were to receive payment of its
4 claims against Barrie Logan in the Santa Clara litigation to the extent provided by the
5 provisions of the Bankruptcy Code.

6 23. The Comerica Transfer is a voidable preference pursuant to Section 547(b) of
7 the Bankruptcy Code, and is recoverable from Comerica pursuant to Section 550 of the
8 Bankruptcy Code.

9
10 **Second Claim for Relief - AEMT / Trust, Assignees of the**
11 **Bankruptcy Estate of Barrie Morine Logan for Avoidance**
12 **and Recovery of Preferential Transfer Against Miller,**
13 **Monson, Peshel, Polacek & Hoshaw**

14
15 24. Plaintiffs hereby repeat and reallege paragraphs 1-17 of the Complaint as if set
16 forth in full herein.

17 25. On or within 90 days prior to the Petition Date, funds of Barrie Logan in the
18 amount of \$40,000, held in Account #8000829518 at the Bank were sent via wire transfer
19 to the bank account of Miller, Monson, Peshel, Polacek & Hoshaw in San Diego, California.
20 (the Miller, Monson Transfer”).

21 26. The Miller, Monson Transfer was for or on account of an antecedent debt owed
22 by Barrie Logan to the Miller, Monson, Peshel, Polacek & Hoshaw before the Miller,
23 Monson Transfer was made, to wit for attorney fees incurred in representing the widow
24 Barrie Logan in a variety of lawsuits and legal proceedings, all prior to 90 before the Petition
25 Date.

26 27. The Miller Monson Transfer was made while Barrie Logan was insolvent.

27 28. The Miller Monson Transfer enabled Miller, Monson, Peshel, Polacek &
28 Hoshaw to receive more than Miller, Monson, Peshel, Polacek & Hoshaw would receive if:

1 (i) this were a case under Chapter 7 of the Bankruptcy Code, (ii) the Miller, Monson Transfer
2 had not been made, and (iii) Miller, Monson, Peshel, Polacek & Hoshaw were to receive
3 payment of its claims against Barrie Logan in the Santa Clara litigation to the extent provided
4 by the provisions of the Bankruptcy Code.

5 29. The Miller, Monson Transfer is a voidable preference pursuant to Section
6 547(b) of the Bankruptcy Code, and is recoverable from Comerica pursuant to Section 550
7 of the Bankruptcy Code.

8
9 **Third Claim for Relief - AEMT / Trust, Assignees of the**
10 **Bankruptcy Estate of Barrie Morine Logan, for Avoidance**
11 **of Unperfected Security Interest in Transferred Funds**
12 **Against Comerica, Inc. and Miller, Monson, Peshel, Polacek**
13 **& Hoshaw**

14
15 30. Plaintiffs hereby repeat and reallege paragraphs 1-17, inclusive, paragraphs 19
16 - 23, inclusive, and 25 - 29, inclusive.

17 31. Defendants, Comerica, Inc. and Miller, Monson, Peshel, Polacek & Hoshaw
18 failed to perfect their interests in the Transferred Assets, and the funds in Comerica Account
19 No. 8000829518, as required under applicable law.

20 32. Pursuant to § 544(a)(1) of the Bankruptcy Code, the Plaintiffs, as assignees of
21 the Trustee of the Bankruptcy Estate of Barrie Morine, are afforded the status of a
22 hypothetical judicial lien creditor of the Debtor, Barrie Morine Logan, as of the Petition
23 Dates.

24 33. By reason of the foregoing, and in accordance with the Trustee's powers under
25 section 544 of the Bankruptcy Code, the Plaintiffs are entitled to a judgment avoiding any
26 interests of Defendants, Comerica, Inc. and Miller, Monson, Peshel, Polacek & Hoshaw in
27 the Transferred Assets under §§ 544 and 550 of the Bankruptcy Code

28 WHEREFORE, Plaintiffs hereby respectfully requests that this Court enter a

1 Judgment:

2
3 On the First Claim for Relief:

- 4 1. Avoiding the Comerica Transfer pursuant to §547(b) of the Bankruptcy Code;
- 5 2. Directing Comerica to immediately turnover to Plaintiffs the amount of
- 6 \$640,000.00, plus interest from the date of the filing of this Complaint,
- 7 pursuant to § 550 of the Bankruptcy Code;
- 8 3. Entering a money judgment in favor of Plaintiffs against Comerica in the
- 9 amount of \$640,000.00, plus interest from the date of the filing of this
- 10 Complaint, pursuant to § 550 of the Bankruptcy Code;

11
12 On the Second Claim for Relief:

- 13 1. Avoiding the Miller, Monson Transfer pursuant to §547(b) of the Bankruptcy
- 14 Code;
- 15 2. Directing Miller, Monson to immediately turnover to Plaintiffs the amount of
- 16 \$40,000.00, plus interest from the date of the filing of this Complaint, pursuant
- 17 to § 550 of the Bankruptcy Code;
- 18 3. Entering a money judgment in favor of Plaintiffs against Miller, Monson in the
- 19 amount of \$40,000.00, plus interest from the date of the filing of this
- 20 Complaint, pursuant to § 550 of the Bankruptcy Code;

21
22 On the Third Claim for Relief:

- 23 1. Avoiding any unperfected interests of Comerica, Inc., a Delaware corporation,
- 24 and Miller, Monson, Peshel, Polacek & Hoshaw in the Transferred Assets and
- 25 or the Funds in Comerica Account No. 8000829518 under §§ 544 and 550 of
- 26 the Bankruptcy Code;
- 27 2. Directing Comerica to immediately turnover to Plaintiffs the amount of
- 28 \$640,000.00, plus interest from the date of the filing of this Complaint,

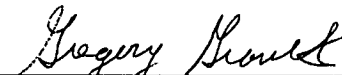
pursuant to § 550 of the Bankruptcy Code;

3. Entering a money judgment in favor of Plaintiffs against Comerica in the amount of \$640,000.00, plus interest from the date of the filing of this Complaint, pursuant to
4. Directing Miller, Monson to immediately turnover to Plaintiffs the amount of \$40,000.00, plus interest from the date of the filing of this Complaint, pursuant to § 550 of the Bankruptcy Code;
5. Entering a money judgment in favor of Plaintiffs against Miller, Monson in the amount of \$40,000.00, plus interest from the date of the filing of this Complaint, pursuant to § 550 of the Bankruptcy Code;

On All Claims for Relief:

1. For Costs of Suit and Attorneys Fees, if allowed by statute or contract;
2. Such other and further relief as this Court deems just, equitable and proper.

Dated: August 12, 2008


Gregory Grantham, Esq., attorney for Plaintiffs,
GREG SPAK, Trustee of the Cherry Blossom
Revocable Inter Vivos Trust and A.E.
MOTORCYCLE TECH, INC., a California
corporation

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

GREG SPAK, Trustee of the Cherry Blossom Revocable Inter Vivos Trust and A.E. MOTORCYCLE TECH, Inc., a California corp.

(b) County of Residence of First Listed Plaintiff Santa Clara
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Gregory Grantham, 13902 Gershon Place, Santa Ana, CA 92705
(714) 544-1276

DEFENDANTS

COMERICA Inc., a Delaware corporation and
MONSON, PESHLE, POLACEK & HOSHAU, a partnership

County of Residence of First Listed Defendant UNKNOWN
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED. BY YMT DEPUTY

Attorneys (If Known)

'08 CV 1482 DMS POR

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input checked="" type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
			IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN

- (Place an "X" in One Box Only)
- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
11 U.S.C. sec. 547, 550

Brief description of cause:
Assignee of Chapter T Trustee brings suit to recover \$680,000 in voidable preferences

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐ DEMAND \$ 680,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

08/12/2008

SIGNATURE OF ATTORNEY OF RECORD

Gregory Grantham

FOR OFFICE USE ONLY

RECEIPT # 15012

AMOUNT

\$350.00

APPLYING IFP

JUDGE

MAG. JUDGE

TS 08/14/08

CP

**UNITED STATES
DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

**# 154042 - MB
* * C O P Y * *
August 14, 2008
13:04:40**

Civ Fil Non-Pris

USAO #: 08CV1482 CIVIL FILING
Judge.: DANA M SABRAW
Amount.: \$350.00 CK
Check#: BC2801

Total-> \$350.00

FROM: GREG SPAK, TRUSTEE OF THE
CHERRY BLOSSOM REVOCABLE
INTER VIVOS TRUST, ET AL VS
COMERICA, ET AL